

Changes to Notary Law Effective 10/1/2020

This page is meant to provide a summary of the changes to notary law. It is not meant to be a comprehensive set of guidance on the new law. You should review the full set of changes to notary law at the link provided below. More content about the new notary law will be posted as it is created.

A link to the full text of Senate Bill 0678, passed during the 2019 Legislative Session can be found at this link: http://mgaleg.maryland.gov/2019RS/Chapters_noln/CH_407_sb0678e.pdf.

Recordkeeping (section 18-219 of the new law):

The new law enhances the recordkeeping requirements of notaries public. The term used in the new law for a notary's record is "journal". Up until now, the notary's record was referred to as a "fair register". 18-219 of the new law explains:

- the requirements for the information a notary must keep for every entry in their journal;
- how the records must be stored; and
- for how long the records must be stored (10 years from the last entry in your journal).

Identification of a signer and Competency (section 18-206 and 18-207):

A notary public must satisfactorily identify the person requesting a notarial act before performing the notarial act (18-206). This law empowers a notary public to refuse to perform a notarial act if the notary is not satisfied that the individual executing the record is competent or has the capacity to execute the record or is not satisfied that the individual's signature is knowingly and voluntarily made (18-207).

This law provides a few options for identifying a signer:

- personal knowledge;
- government-issued photo identification; and
- credible witness.

Types of Notarial Acts and Notarial Certificates (sections 18-204, 18-215, 18-216):

This new law increases the types of notarial acts allowed and alters some of the requirements for the pre-existing types of notarial acts. There are several notarial acts that a notary will be able to perform. Details on these acts can be found in 18-204. They are:

- acknowledgment;
- verification on oath or affirmation of a statement;
- witness or attest to a signature;

- certify or attest a copy of a record;
- certify a tangible copy of an electronic record; and
- protest of a negotiable instrument.

The new law will require each notarial act to have a notarial certificate. Requirements for affixing notarial certificates are found in 18-215 and 18-216.

Remote Notarizations (18-214, 18-220):

This law legalizes notarial acts using communication technology for a remotely located individual. These notarial acts are better known as remote notarizations or remote online notarizations. The requirements of remote notarizations, as allowed in this law effective October 1, 2020, are different than those that are currently allowed under the Governor's Order temporarily allowing remote notarizations during the COVID-19 state of emergency. ***Remote notarizations using technology primarily intended for video conferencing (such as Skype, Microsoft Teams, Google Meet, etc.) are not allowed under this new law.***

Before a notary public performs their initial remote notarial act the notary public shall notify the Secretary of State that the notary public will be performing notarial acts facilitated by communication technology; and of the technologies the notary public intends to use. The Secretary of State will create a notification form to be submitted by the notary public to the Secretary of State to fulfill this requirement. ***Remote notary notification forms submitted during the COVID-19 state of emergency do not authorize a notary public to perform remote notarizations under this new law. A new remote notary notification form will be required.***

More information on the requirements of remote notarizations can be found in 18-214 and 18-220. Further information on allowed remote notary technology vendors will be available as we approach October 1, 2020.